

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, March 26, 2008
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: March 14, 2008

RE: Closed Session of the Board on March 26, 2008

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. COLE-CHEM CORPORATION, 06-R4D1-1872 AND 1873
2. INNOVATIVE CONSTRUCTION, 05-R4D4-113 AND 08-R4D4-0652 AND 0653

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

3. A & A DISTRIBUTION, INC., 07-R1D2-2386
4. AGRUM U.S.M INC., 05-R2D1-4242
5. ALL SEASONS ROOFING SERVICES, 06-R2D2-1182

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6. AMERICAN RENTALS INC., 06-R3D5-3666
7. ANITA'S MEXICAN FOODS, 07-R3D3-1040 THROUGH 1042
8. APM TERMINALS, 06-R6D2-712
9. AQUARIUS BRANDS INC., 07-R2D5-3073
10. BALBOA DESSERT COMPANY, 07-R6D2-4005 THROUGH 4009
11. BLOSS, INC., 07-R6D2-1979 THROUGH 1983
12. BRALY RENTS INC., 07-R2D3-3952
13. CAL BUILDING & MAINTENANCE INDUSTRIES, INC., 06-R4D3-1460
14. CANTEEN OF FRESNO, 07-R2D5-3958
15. CAPSTONE TURBINE CORPORATION, 07-R4D3-4729
16. CASEY'S SCREEN GRAPHICS, 07-R4D1-1570 THROUGH 1573
17. CENTRAL CHEVORLET, 06-R1D4-2455 THROUGH 2457
18. CENTRAL CONCRETE & SUPPLY CO., INC., 07-R1D4-1610 AND 1611
19. C J TECH CONSTRUCTION, 06-R4D1-2316
20. CONCRETE WORKS STUDIO, INC., 07-R6D1-1961 THROUGH 1969
21. COUNTRY BUILDERS, INC., 07-R1D1-1767
22. COX COMMUNICATION, 05-R3D2-2666 AND 2667
23. CRESCENT CITY – FRED ENERT MUNICIPAL POOL, 07-R2D3-3951
24. DANIELS ENTERPRISES, INC., dba HERALD PRINTING COMPANY,
06-R2D1-2707 THROUGH 2711
25. DAVIS ROODING INC., 05-R3D3-4127
26. DESILVA GATES CONSTRUCTION, 06-R5D1-2909
27. DIGITAL ART SUPPLIES, 07-R3D2-5005
28. DIXIELAND LUMBER, 06-R3D2-4959 THROUGH 4962

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29. EL DORADO STONE LLC. SITE #110, 06-R3D3-5075
30. FIRESIDE HEARTH AND HOME, 07-R3D2-2412 THROUGH 2414
31. G & I ISLAS INDUSTRIES INC., 06-R6D2-3021 THROUGH 3207
32. GANAHL LUMBER COMPANY, 07-R3D3-1051
33. JAMES G. GARCIA, INC., 07-R2R3-0723 AND 0724
34. GEORGE DOORS, INC., 07-R3D1-2028
35. GLASS TECH, INC., 07-R1D2-826
36. GENERAL COATINGS CORPORATION, 07-R3D2-1868
37. GOLDEN WEST TRAILER SALES, 06-R4D3-633 AND 634
38. RICHARD P. HAFNER, JR., MARY H. HAFNER, JULIE H. FARRELL,
PRESCOTT HAFNER, ELIZABETH HAFNER, PARKE HAFNER,
INDIVIDUALLY AND DBA HAFNER VINEYARD, 07-R1D5-2392
39. HOLDERS AIR CONDITIONING & HEATING, INC., 06-R4D3-4441 AND 4442
40. DR. HORTON, AMERICA'S BUILDERS, 06-R3D3-2025 THROUGH 2029
41. IAP WORLDWIDE SERVICES, INC. 07-R3D3-1709 THROUGH 1711
42. INNOVATIVE CONSTRUCTION & DEVELOPMENT, 06-R4D1-2307
THROUGH 2310
43. INTELECTRIC, INC., 07-R4D1-3589
44. J A CONTRACTING FLC., 07-R2D5-2023
45. KENYON PLASTERING, 07-R2D4-3026 AND 3027
46. KIMCO STAFFING SERVICES, INC., 07-R3D3-2219
47. PETER D. KNIGHT, PATRICIA KNIGHT – BAKER etc. dba KNIGHT FARMS,
07-R2D3-3945
48. PETER D. KNIGHT, PATRICIA KNIGHT – BAKER etc. dba KNIGHT FARMS,
07-R2D3-3950
49. KUO'S PAINTING CO., 06R4D1-2311

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50. L & M LOADER SERVICE, INC., 06-R4D2-2059 THROUGH 2061
51. G. MICHAEL LENTEO. PARTNER, 07-R2D3-1529 AND 1530
52. LOS ANGELES BAKING COMPANY, 07-R4D2-1736
53. LUCILLES BARBEQUE SMOKEHOUSE, 07-R3S1-5346
54. MAXCY'S GRILL, 06-R3D3-2767 AND 2768
55. MAZZOLA CUSTOM LANDSCAPING, INC., 07-R3D2-2615
56. MIDAS, 07-R4D3-1957 AND 1958
57. NATIONAL GYPSUM COMPANY, 07-R2D2-3943 AND 3944
58. NELSON LYMAN PAINTING, 07-R3S2-2202
59. NEW ALBERTSONS, INC., 07-R3D1-1024 AND 1025
60. NINO HOMES, 07-R1D2-1769
61. OREPAC MILLWORK PRODUCTS, 06-R3D3-2263 THROUGH 2265
62. PAPER COATING, INC., 06-R4D2-1108 AND 1109
63. PAPER COATING, INC., 06-R4D2-1110
64. PERKINS WM INCORPORATED (WM PERKINS COMPANY, INC.,
06-R3D3-2015 THROUGH 2019
65. READY PAC PRODUCE CO., 07-R4D4-4575
66. REINFORCING POST-TENSIONING SERVICES, INC., 07-R1D1-1336
67. REYNOLDS FARMS, 06-R2D3-466
68. RIO CITY CAFÉ, 07-R2D1-2008
69. RODRIGUEZ CUSTOM PAINTING, 07-R3D2-654 THROUGH 958
70. SADDLEBACK MATERIALS CO., INC., 06-R3D3-560 AND 2589
71. SAN DIEGO SEAMSTRESS SOLUTIONS, 07-R3D2-2030 THROUGH 2033
72. SELECT BUILD, INC., 08-R3D2-0176

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73. SESSIONS PAYROLL MANAGEMENT, INC., 06-R4D1-3775
74. SHOEI FOODS (USA) INC., 07-R2D3-1372 AND 1374
75. SIERRA PACIFIC INDUSTRIES, 06-R2D1-446
76. SKYLINE FLOWER GROWERS AND SHIPPERS, 06-R4D3-970 THROUGH 972
77. SOLAR INTEGRATED TECHNOLOGIES, 07-R3D2-2199
78. SOLO STEEL ERECTORS, 07-R2D3-3872
79. SOUTHERN CALIFORNIA EDISON, 06-R4D1-2314
80. SUNRISE STAGING, INC., 07-R3D3-4892
81. SUSHI HOUSE, 06-R3D2-4527
82. SUTTER ROSEVILLE MEDICAL CENTER, 07-R2D1-4213
83. TAHOE TRUCKEE SIERRA DISPOSAL CO., INC., 06-R2D1-1031 AND 1032
84. TASTE OF CHINA SUPER BUFFET, INC., 07-R2D1-2006 AND 2007
85. TIME WARNER CABLE, 07-R3D3-4408
86. TRUE BUILDERS CONSTRUCTION, INC., 07-R2D5-1684 AND 1685
87. UC REGENTS, UNIVERSITY OF CA DAVIS, 07-R2D1-4325
88. VALLEY WIDE REFRIGERATION, 07-R2D5-2020
89. VASKO ELECTRIC INC., 06-R2D1-2700 AND 2701
90. VP BUILDINGS, 07-R2D4-0557 AND 0558
91. WATERMAN INDUSTRIES, INC., 07-R2D5-2021
92. WESTLAKE VILLAGE APARTMENTS, 07-R1D3-827 THROUGH 837
93. WHITE'S STEEL, 06-R6D2-1685 THORUGH 1692
94. WMK OFFICE SD, 06-R3D2-4528
95. WOODLAND FARMS, 06-R3D3-1617
96. YOUNG ELECTRIC SIGN COMPANY, 07-R2D3-3946

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ORDERS DISMISSING APPEALS:

1. CALIFORNIA OFFSET PRINTERS, 06-R4D2-0136 AND 0137
2. COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC SOCIAL SERVICES,
06-R4D2-0135
3. GOLDEN STATE BORING & PIPEJACKING, INC., 05-R5D2-2359
4. SIEMERS ENGINEERING, 05-R3D2-3312 THROUGH 3316

ORDERS DENYING LEAVE TO FILE LATE APPEALS:

NONE.

ORDERS GRANTING LEAVE TO FILE LATE APPEALS:

5. 1161 TETSUO COMMERCIAL PROPERTY, LLC, 2008-R1D1-0867 THROUGH
0873
6. ALTIMA CONTRACTING LIMITED INC., 200-R1D4-0880 THROUGH 0882
7. RAY DERINGER DBA COMMERCIAL BUILDING SERVICES, 2008-R1D1-0865
AND 0866
8. GREAT SCOTT TREE SERVICE, 2008-R3D5-0886 AND 0887
9. SAN FRANCISCO OPERA ASSOCIATION, 2008-R1D1-0876 THROUGH 0879
10. VILA CONSTRUCTION, 2008-R1D4-0874 AND 0875

ORDERS DENYING LEAVE TO REOPEN APPEALS:

NONE.

ORDERS GRANTING APPEALS:

1. ALL AMERICAN ASPHALT, 04-R3D3-4188

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PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. KHS&S CONTRACTORS, 06-R3D2-2759 AND 2760

DENIAL OF PETITION FOR RECONSIDERATION (DRAFTS):

1. AGS CONSTRUCTION SERVICES, 07-R2D3-9573
2. BRS INC., 08-R2D1-9003
3. JAMES E. CAIRNES dba SMALL WORLD TREE CO., 07-R1D5-9516
4. GSF ENTERPRISES, INC., dba GOLDEN STATE FRAMERS, 07-R4D3-9562
5. LA PIZZA GROTTO, 07-R3D1-9520

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. A. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
2. AC FRAMERS INC., 03-R2D3-3475
3. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
4. ASC PROFILES, INC., 06-R2D1-1181
5. AMERIPRIDE UNIFORM 04-R4D2-106 AND 107
6. BART, 03-R1D1-5170
7. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
8. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
9. BLF, INC., dba LARRUBURE FRAMING, 02-R4D1-4675 THROUGH 4680

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10. BLF, INC., dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
11. BLUE DIAMOND MATERIALS, 02-R5D2-1268
12. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
13. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
14. CALIFORNIA FRESH FARMS LLC., 06-R2D4-4127 AND 4224
15. CENTRAL CHEVROLET, 05-R1D4-2615 THROUGH 2618
16. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
17. COX COMMUNICATIONS, 03-R3D2-1942
18. DADE BEHRING, 05-R2D1-2203
19. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
20. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
21. DYNALECTRIC, 03-R1D1-4101
22. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
23. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
24. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
25. GLASS PAK, 03-R2D2-0750 AND 0751
26. GRAND BUILDERS, 07-R4D3-9344
27. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
28. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
29. HELPMATES STAFFING SERVICES, 05-R3D3-2239
30. HUSSMAN CORPORATION, 03-R3D1-2939
31. ILH CONSTRUCTION, 02-R1D1-4172
32. JOHN LAING HOMES, 04-R3D1-194 AND-195
33. KELLY SERVICES, INC., 06-R1D2-1024

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- 34. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
- 35. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
- 36. LONG BEACH CITY COLLEGE, 03-R3D5-2747
- 37. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
- 38. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
- 39. O & M INDUSTRIES, 04-R1D5-1597
- 40. PMR RACE CARS, 03-R3D3-1825
- 41. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
- 42. RII PLASTERING INC., 02-R3D1-2679
- 43. R & L BROSAMER, INC., 03-R1D5-4832
- 44. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654
THROUGH 1656
- 45. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
- 46. STACY & WITBECK INC., 05-R1D1-1142
- 47. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688
THROUGH 1692
- 48. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
- 49. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 AND 2614
- 50. TEICHERT AGGREGATES, 04-R5D1-2982
- 51. TRIO METAL, 03-R4D4-0317
- 52. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2556 AND 2557
- 53. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
- 54. WESTERN DOOR, 01-R3D1-2827
- 55. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 AND 3018

PENDING LITIGATION:

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(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
2. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
3. MURRAY COMPANY, BS112469 (07-9190-9192)
4. UNITED ASSOCIATION LOCAL UNION 246, AFL-CIO; IDEPSCA INSTITUTO DE EDUCACION POPULAR DEL SUR DE CALIFORNIA AND CENTRO LEGAL DE LA RAZA, (HARRIS CONSTRUCTION COMPANY, INC.), 07CS00518 (02-3914)
5. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, LOCAL LODGE 1781; JULIA SMITH, (UNITED AIRLINES dba UNITED AIRLINES SFO SYC), 07CS00331 (00- 2844)
6. WESTERN MILLING, LLC, 06 CE CG 04007 (06- 9039/9040)
7. IRBY CONSTRUCTION COMPANY, ECU03759 (03-2728)
8. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344-4345)
9. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH v. OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD (J.F. SHEA CONSTRUCTION, INC) 34-2007-00882187-CU-WM-GDS, (02-801)
10. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH v. OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD (E. L. YEAGER CONSTRUCTION COMPANY, INC.), 34-2007-00882192-CU-WM-GDS, (01-3261)

APPELLATE COURT:

NONE.

OTHER LEGAL MATTERS:

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

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NONE.

PERSONNEL: *(Issues regarding staff.)*

NONE.

Any matter not completed at this Closed Session may be continued to subsequent meetings.